UNITED STATES DISTRICT COURT WESTERN DISTRICT OF NORTH CAROLINA CHARLOTTE DIVISION DOCKET NO. 3:05-cr-00104-FDW-DSC

UNITED STATES OF AMERICA)	
Plaintiff,)))	
vs.)	
BRIAN JEROME WISE,))	ORDER
Defendant.)	
	,)	

THIS MATTER is before the Court, *sua sponte*, following administrative review of the docket and discovery of a clerical error in this matter. On September 14, 2006, the United States moved to dismiss the charges against Defendant Brian Jerome Wise in this case because on July 5, 2006, the Honorable Richard L. Voorhees sentenced Defendant to 240 months incarceration in the separate case of <u>United States v. Timothy X. Davis</u>, et al, 3:04-cr-39-RLV. (Doc. No. 337; <u>see also US v. Davis</u>, 3:04-cr-39, Doc. No. 279.) The undersigned granted the motion to dismiss the charges against Defendant in the instant case on October 3, 2006. (Doc. No. 345.)

Despite entering an order denying a sentence reduction pursuant to 18 U.S.C. § 3582(c)(2) in the <u>US v. Davis</u> case (see 3:04-cr-39, Doc. No. 458), the Court also inadvertently entered an almost-identical order in the above-captioned case.¹ <u>See Doc. No. 862</u>. Because the Court had previously granted the motion to dismiss charges against Defendant in the case at bar, the Court

¹ Aside from the identification of the "Case No." and the one-day difference in the signature date, the Orders are identical, including reference to the "Date of Original Judgment: August 1, 2006." The August 1, 2006, judgment issued only in the <u>US v. Davis</u> (3:04-cr-39) case and formed the basis for the motion to dismiss made and granted in the case at bar.

lacked jurisdiction to enter the Order Regarding Motion for Sentence Reduction Pursuant to 18 U.S.C. § 3582(c)(2). Accordingly, in light of this clerical error, the Court hereby VACATES the "Order Regarding Motion for Sentence Reduction Pursuant to 18 U.S.C. § 3582(c)(2)" (Doc. No. 862) in the above-captioned case. This Order and the ruling contained herein have no impact on the sentence of Defendant Wise in the case of <u>US v. Davis</u> case (<u>see</u> 3:04-cr-39), or on the Order Regarding Motion for Sentence Reduction Pursuant to 18 U.S.C. § 3582(c)(2) entered in that case.

IT IS SO ORDERED.

Signed: November 17, 2017

Frank D. Whitney

Chief United States District Judge